LIBRARY
SUPREME COURT U.S.

Office - Supreme Court, U.S.
FILED
DEC 18 1957
JOHN T. FEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957.

No. 499

OHIO FARMERS INSURANCE COMPANY, OHIO FARMERS INDEMNITY COMPANY,

Petitioners and Appellees below,

vs.

EZRA LANTZ, ROBERT L. LANTZ, MARIE YODER, CAROL M. YODER, ROBERT D. MYERS, IMOGENE L. MYERS, ELMER L. MILLER, BETTY JANE MILLER,

Respondents and Appellants below.

PETITION FOR REHEARING UNDER RULE 58(2), SUPREME COURT RULES.

ROLAND OBENCHAIN,
ROLAND OBENCHAIN, JR.,
801 Odd Fellows Building,
South Bend 1, Indiana,
Attorneys for Petitioners.

INDEX TO PETITION.

	PAGE
Authorities Cited	i
Certificate of Counsel	2, 3
Grounds for Rehearing	1
First Ground	1
Second Ground	2
Prayer	3

AUTHORITIES CITED.

Allstate Insurance Co. v. McKenzie, (1957, 5 Cir.) 246 F. 2d 151	1, 2
Byrd v. American Guarantee & Liability Ins. Co., (4 Cir.) 180 F. 2d 246	2
Commonwealth Casualty v. Arrigo, 160 Md. 595; 154 A. 136, 138	2
Truck Insurance Exchange v. Hanson, 254 P. 2d 494	2

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957.

No. 499.

OHIO FARMERS INSURANCE COMPANY, OHIO FARMERS INDEMNITY COMPANY,

Petitioners and Appellees below.

vs.

EZRA LANTZ, ROBERT L. LANTZ, MARIE YODER, CAROL M. YODER, ROBERT D. MYERS, IMOGENE L. MYERS, ELMER L. MILLER, BETTY JANE MILLER,

Respondents and Appellants below.

PETITION FOR REHEARING UNDER RULE 58(2), SUPREME COURT RULES.

FIRST GROUND.

On June 29, 1957, two days after the United States Court of Appeals for the Seventh Circuit decided this case, the United States Court of Appeals for the Fifth Circuit decided *Allstate Insurance Company* v. *McKenzie*, 246 F. 2d 151 (Advance Sheet published September 23, 1957), reaching the opposite result. The decisions of the United States Court of Appeals for the Seventh Circuit in this case and of the United States Court of Appeals for the Fifth Circuit in the *Allstate Insurance Company* case are in irreconcilable conflict.

SECOND GROUND.

The respondents in their answer brief at page 5 agree that the testimony of witnesses Blosser, Lantz and Lantz is correctly set forth in the petition at pages 4, 5, 6 and 7. It necessarily follows that there was no evidence that petitioners had any knowledge that the respondent, Robert Lantz, was the owner of the insured automobile and that title was taken in his father's name because he was a minor. This then is a case like *Byrd* v. *American Guarantee & Liability Insurance Company* (4 Cir.), 180 F. 2d 246, and *Allstate Insurance Company* v. *McKenzie*, 246 F. 2d 151, rather than like *Truck Insurance Exchange* v. *Hanson*, 254 P. 2d 494, and *Commonwealth Casualty* v. *Arrigo*, 160 Md. 595, 154 A. 136, 138.

CERTIFICATE.

The undersigned attorney of record does hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for the purpose of delay.

ROLAND OBENCHAIN, JR.,
801 Odd Fellows Building,
South Bend 1, Indiana,
Attorney for Petitioners.

CERTIFICATE.

The undersigned attorney of record does hereby certify that the grounds hereinabove stated in support of the Petition for Rehearing are believed to be of substantial and controlling effect and are confined to circumstances which have occurred since the filing of the Petition for Writ of Certiorari herein on September 23, 1957.

ROLAND OBENCHAIN, JR.,
801 Odd Fellows Building,
South Bend 1, Indiana,
Attorney for Petitioners.

PRAYER.

The petitioners pray this Petition may be granted and an order entered granting rehearing of the order denying Petition for Writ of Certiorari.

Respectfully submitted,

ROLAND OBENCHAIN,
ROLAND OBENCHAIN, JR.,
801 Odd Fellows Building,
South Bend 1, Indiana,
Attorneys for Petitioners.